

**HB419: Captive Insurance Quick Facts for Montana Legislators**

by Brenda M. Olson, MBA, CPCU, Chair of Montana Captive Insurance Association

**What is captive insurance?** Captive insurance is essentially formalized self-insurance. Captives and risk retention groups<sup>i</sup> (RRGs) are licensed insurance companies formed and owned by the same businesses, associations and groups they insure. As alternatives to the traditional insurance market, captives are a risk management tool to control costs, improve cash flow and tailor coverage. Because a captive's insureds and owners are one-and-the-same, captives need fewer regulations and greater flexibility than traditional insurance companies: thus Chapter 28 of Title 33 (Insurance) MCA is dedicated to captive insurance companies.

**What is the history of captive insurance in Montana?** In 2001, the Montana legislature first enacted captive insurance legislation. Each subsequent legislature has overwhelmingly supported captive law by passing bills that have expanded the types of available captive insurance licenses and types of insurance that captives can offer. As a result, the number of Montana captive insurance companies has grown 38% per year on average over the last 5 years. As of January 1, 2011, Montana is home to sixty eight (68) captives/RRGs with 26 being formed in 2010.

**What's the economic impact to Montana?**

- In 2009, Montana-domiciled captives/RRGs wrote \$274 million in premiums and paid Montana premium taxes of \$420,070 on worldwide written premiums.<sup>ii</sup>
- The State Auditor reports nearly \$2 million of captive tax revenues contributed to Montana's general fund.<sup>iii</sup>
- Captives help a myriad of businesses including construction, law firms, manufacturers, ranchers, retailers, physicians, hospitals, clinics, nursing homes, and truckers by providing insurance for property, casualty, and health. Approximately 15% of captives directly help Montana businesses: the other 85% bring out-of-state premiums to Montana.
- Captives create high-paying Montana jobs by engaging Montana firms to provide management services, audit, legal, and actuarial work estimated at \$2 million annually.
- Captive tourism directly generates an estimated \$1 million annually to our economy.
- The Montana Captive Insurance Association holds two conferences each year, attracting more than 100 attendees worldwide.

**What will HB419 accomplish?** Montana competes with over 25 states as a domicile for captives/RRGs. Montana laws must be kept current and offer flexibility in accommodating a variety of captive business plans to address changing business needs.

**Key elements of HB419:**

1. Clarifying protected cell captive regulations and allowing cells to be incorporated as separate legal entities, giving owners/insureds greater regulatory and legal certainty;
2. Adjusting minimum capital & surplus for association captives to be similar as RRGs;
3. Creating a new licensing category of Special Purpose Captives which gives the Insurance Commissioner authority to specify regulatory requirements when a given captive business plan does not fit neatly into other licensing categories;
4. Extending the filing deadline for captive annual reports to April 1.

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### **Why do companies choose to use a captive insurance company?**

1. Captives are able to provide tailored insurance policies offering broader coverage than commercially available. Captives can insure difficult risks that the commercial insurance market will not write for a reasonable price, if at all (e.g. pollution liability);
2. Captives provide a stable source of insurance for their owners;
3. Captives offer the opportunity to capture underwriting profits (as well as the risk of underwriting losses);
4. A captive provides direct financial rewards for reducing claims, so captives provide incentive for strong safety and loss control practices. Captives can provide tailored loss prevention services for owners/insureds;
5. Captives can invest premiums and reserves, producing investment income that can offset claims costs;
6. Captives allow access to the reinsurance market, so catastrophe protection can be purchased at "wholesale" prices;
7. Captives typically have lower overhead expenses than do traditional insurance companies, which helps lower business insurance costs;
8. Captive federal income tax treatment is usually better than self insurance, in that claim reserves may be tax deductible;
9. Captives give owner/insureds control over the captive's underwriting decisions, policy forms/coverage, premiums and payment terms, service providers, claims management, and dividend policies;
10. Captives increase risk management focus within the organization: captives involve owners, senior management, and employees in risk identification, risk assessment, risk mitigation, and risk financing decisions.

### **Where can you learn more?**

- Montana Captive Insurance Association [www.mtcaptives.org](http://www.mtcaptives.org)
- Aimee Grmoljez, MCIA lobbyist at (406) 459-5958
- Montana Captive Domicile Report 2010 [handout]
- MCIA 6<sup>th</sup> Annual Conference, Whitefish [handout]
- Legislators are invited to attend the MCIA Spring Conference reception on Tuesday March 29 at the Great Northern Best Western, Helena from 5:00PM to 6:30PM to hear presentations and meet industry representatives.

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<sup>i</sup> Risk Retention Groups are captives that also comply with the federal Liability Risk Retention Act of 1986 et seq. RRGs can only insure liability coverage.

<sup>ii</sup> Source: Montana State Auditor's Office. Traditional insurers pay 2.75% Montana premium taxes on premiums written for Montana risks. Captive/RRG insurers pay 0.4% Montana premium taxes on premiums written anywhere in the world, subject to a \$5,000 annual minimum tax.

<sup>iii</sup> Source: Montana State Auditor's Office press release dated January 31, 2011